IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL APPEAL NO.511 OF 1989

The State of Maharashtra .... Appellant
Vs.
Avinash K. Jadhav & Ors. .... Respondents

Shri B.H. Mehta, A.P.P., for the Appellant.

Shri H.K. Prem for the Respondents.

CORAM: R.M.S. KHANDEPARKAR &
P.V. KAKADE, JJ.

DATED: APRIL 28, 2005

P.C:

1. This appeal is filed by the appellant-State against the judgment and order dated 29-4-1989 passed by the Assistant Sessions Judge, Pune in Sessions Case No.563 of 1988 acquitting all the respondents of the offence punishable under Section 307 r/w Section 34 of the Indian Penal Code. The prosecution was launched on the complaint of one Nanna Martin Das regarding the incident dated 13-6-1988 at about 12:00 noon at Chandtara Chowk, Ghorpade Peth, Pune on the basis of the alleged assault at the hands of the respondents in which course he was assaulted with knife and suffered injuries.

2. We have heard the learned A.P.P. as well as the learned Advocate for the respondents with whose help we have perused the entire evidence on record. The

evidence on record is sufficient to show that the offence under Section 307 i.e. attempt to murder is not disclosed from the records and therefore the charge under Section 307 of the Indian Penal Code would not sustain. The facts revealed from the records would, at the most, make out an offence punishable under Section 324 r/w Section 34 of the Indian Penal Code against the respondent No.1, however, no charge for any offence can be sustained against the remaining respondents.

3. In the course of the hearing, the complainant has filed his affidavit on record stating that he desires to compound the matter as there is no enmity between the parties and they have settled the dispute amongst themselves. In other words, this is an affidavit applying to the Court that the matter be compounded. The learned A.P.P. has stated that since the matter is settled between the parties, he has nothing to add in this regard.

4. Taking into consideration all the relevant aspects and hearing the complainant in-person, we are of the view that the matter deserves to be compounded in view of the affidavit filed by the complainant, who was injured in the alleged incident.

5. In view of the above, the appeal is partly allowed.

The impugned order dated 29-4-1989 passed by the Assistant Sessions Judge, Pune in Sessions Case No.563 of 1988 is hereby set aside in view of the compounding of the matter between the complainant and the respondent No.1. The respondent No.1 stands acquitted by virtue of Section 320(8) of the Code of Criminal Procedure. The appeal as against the respondent Nos.2 to 4 is hereby dismissed.

(R.M.S. Khandeparkar, J.)

(P.V. Kakade, J.)